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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/600,209	07/12/2000	BRAD NEILSON	11941	8945
6123 7590 09/11/2007 JAMES EARL LOWE, JR. 15417 W NATIONAL AVE # 300 NEW BERLIN, WI 53151			EXAMINER MARSH, STEVEN M	
			ART UNIT 3632	PAPER NUMBER
			MAIL DATE 09/11/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/600,209

Applicant(s)

NEILSON, BRAD

Examiner

Steven M. Marsh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4-9, 11 and 13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-9 and 11 is/are rejected.
- 7) ☒ Claim(s) 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This is the third office action for U.S. Application 09/600,209 for a Material Support Stand filed by Brad Neilson on July 12, 2000. Claims 4-9, 11, and 13 are pending.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4-9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,007,841 to Seipel. Seipel discloses an equipment support stand that can be used on an underground mining machine adjacent to an apparatus. The stand has a base (13, 14) adapted to stand on the surface of a machine, and an upstanding rack (10) shaped and configured to hold or support items, mounted to the base. There is a plurality of clamps (34', 35') for releasably securing the base to the surface, the clamps having a hook formation (formed by the lower end of 35' in conjunction with 34') adapted to pass through an aperture in the surface of a machine and hook beneath the surface to rigidly fix the stand to the surface. The upstanding rack has a frame with arms (22) projecting laterally therefrom to at least one side thereof, wherein items can be held in position by the arms. At least a pair of arms is aligned generally side by side with each other and defining a space there between in which items can be located and

the stand is adapted to be coupled back to back with another stand to provide for double storage capacity with access from at least two sides. There are pegs (23) projecting upwardly at an inclined angle to the horizontal, the pegs being adapted to support annular items or items that have holes or bores there through. The hook formation is tensionable by an over center locking lever (37) connected thereto which, when tensioned, will tightly clamp the stand to the surface. Claims 4-9, 11, and 13 contain limitations to the mining machine, apparatus on the mining machine, and the interchangeable items. However, those features are not positively recited in the claims and therefore carry no patentable significance.

### ***Allowable Subject Matter***

Claim 13 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

Applicant's arguments filed June 25, 2007 have been fully considered but they are not persuasive with respect to claims 4-9 and 11. Applicant argues that Seipel fails to disclose a hook formation. However, in its broadest definition, a hook is defined as "anything that catches". - Modern Language Association (MLA): "hook." Dictionary.com Unabridged (v 1.1). Random House, Inc. 03 Sep. 2007. Seipel discloses the bottom of the bolt 35', which contains clamping members (34') for "catching" the wire rods 18.

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The members (34') could be passed through apertures in the surface of a machine to hook beneath the surface and fix the support stand to the surface. Because the previous action was unclear as to what part of 34' and 35' formed the hook formation, this action has not been made final.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (571) 272-6819. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3600. The fax phone number for the organization where this application or proceeding is assigned is (571) 272-8300.

/Steve Marsh/

Steven M. Marsh

August 28, 2007